APPENDIX

Revenue Act of 1926, c. 27, 44 Stat. 9, as amended:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) [as amended by Section 403 (a) of the Revenue Act of 1934, c. 277, 48 Stat. 680] In the case of a citizen or resident of the United States, by deducting from the value of the gross estate—

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(3) [as amended by Section 807 of the Revenue Act of 1932, c. 209, 47 Stat. 169, and by Section 406 of the Revenue Act of 1934] The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, ex-

clusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph, shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and

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[U. S. C., Title 26, Sec. 412.]

Treasury Regulations 80 (1937 ed.):

ART. 44. *Transfers for public, charitable, religious, etc., uses.*—Deduction may be taken of the value of all property transferred by will or by the decedent in his lifetime not to exceed the value of the transferred property required to be included in the gross estate if in either case the property was transferred (1) to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes; or (2) to or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or ani-

mals), if no part of the net earnings of the corporation or association inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; or (3) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, if such transfers, legacies, bequests, or devises are to be used by such trustee, trustees, fraternal society, order, or association exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

If a trust is created for both a charitable and a private purpose, deduction may be taken of the value of the beneficial interest in favor of the former only insofar as such interest is presently ascertainable, and hence severable from the interest in favor of the private use. Article 10 indicates the principles to be applied in the computation of the present worth of deferred uses, but such computation will not be made by the Commissioner on behalf of the executor. Thus, if money or property is placed in trust to pay the income to an individual during his life, or for a term of years, and then to pay or deliver the principal to a charitable corporation, or to apply it to a charitable purpose, the present value of the remainder is deductible. To determine the present value of such remainder, use the appropriate factor in column 3 of Table A or B of article 10. If the present worth of a remainder bequeathed for a charitable use is dependent upon the termination of more than one life, or in any other manner rendering inapplicable Table A or B of

article 10, the claim for the deduction must be supported by a full statement, in duplicate, of the computation of the present worth made, in accordance with the principles set forth in article 10, by one skilled in actuarial computations.

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ART. 45. *Religious, charitable, scientific, and educational corporations.*—A corporation or association to which such a transfer was made must meet four tests: (1) It must be organized and operated for one or more of the specified purposes; (2) it must be organized and operated exclusively for such purpose or purposes; (3) no part of its net earnings shall inure to the benefit of private stockholders or individuals; and (4) no substantial part of its activities shall be carrying on propaganda, or otherwise attempting, to influence legislation.

The estate is not deprived of the right to deduct the value of property so transferred by reason of the fact that private individuals are the recipients of the benefits which the corporation or association dispenses. Such right is, however, lost if any part of the net earnings of the corporation or association inures to the benefit of a private stockholder or individual.

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